

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

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|----------------------------|---|-------------------------|
| GERALD SMOTHERMAN, |) | |
| |) | |
| Plaintiff, |) | |
| vs. |) | Case No. CIV-11-0311-HE |
| |) | |
| MICHAEL J. ASTRUE, |) | |
| COMMISSIONER OF THE SOCIAL |) | |
| SECURITY ADMINISTRATION |) | |

ORDER


Plaintiff Gerald Smotherman filed this case seeking judicial review of the final decision of the Commissioner of the Social Security Administration (“Commissioner”) denying his application for disability insurance benefits. Consistent with 28 U.S.C. § 636(b)(1)(B), the case was referred to Magistrate Judge Gary M. Purcell. Judge Purcell has recommended the Commissioner’s decision be reversed and remanded. Objections to the magistrate judge’s recommendation were due by May 21, 2012.

The parties, having failed to object to the Report and Recommendation, waived their right to appellate review of the factual and legal issues it addressed. United States v. 2121 E. 30th St., 73 F.3d 1057, 1059 (10th Cir. 1996); *see also* 28 U.S.C. § 636(b)(1)(C) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*” (emphasis added)). The court therefore **ADOPTS** the magistrate judge’s Report and Recommendation [Doc. #23], and the Commissioner’s decision is **REVERSED** and the case **REMANDED** for further proceedings consistent with this decision. Judgment will be entered

contemporaneously with this order. *See* Fed. R. Civ. P. 58(a).

IT IS SO ORDERED.

Dated this 14th day of June, 2012.



JOE HEATON
UNITED STATES DISTRICT JUDGE